

Claim Amendments

The examiner has objected to the withdrawal rather than the rejection of claims 11, 13 and 14 and removal of their numbers from claims lists. The applicant in the accompanying separate paper cancels these claims and includes the numbers on the lists, in accordance with the examiner's requirement.

Response to Arguments: (Non-analogous art)

In the first paragraph of the second office action, the examiner argues that the '156 patent (US Patent No. 2994156 to inventor Steiner) is analogous prior art. The applicant respectfully disagrees that a child's toy mobile and a cat toy mobile are the same. In particular, the applicant notes that the preferred embodiment of the present invention teaches mice hanging by their tails, an inappropriate choice of decoration for a children's toy. On the other hand, the delicate wings ("thin transparent wings", per the specification of the '156 patent, column 2) would be unsuited to the practice attacks of cats and similar animals.

Thus, the applicant respectfully urges that the '156 patent remains non-analogous prior art.

Claim Objections

The examiner objects to the claim listing regarding claims 11, 13 and 14. These claims are hereby included on that list and cancelled.

Claim Rejections Under 35 USC 102 (Beam End Bumper as discussed)

The examiner rejects previously amended claim 1 as being anticipated by the '156 patent. To quote the CCPA, *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (CCPA 1967), "We think that the precise language of 35 USC 102 that "a person shall be entitled to a patent unless" concerning novelty and nonobviousness, clearly places a burden of proof on the Patent Office which requires it to produce the factual basis for its rejection..."

And: "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984).

The amended claim 1 cites two distinct elements: a beam end, and a beam end bumper.

It goes without saying that a beam end may be entirely bumperless because beam ends usually are hard materials having no longitudinal elasticity whatsoever. Beams are inherently strong bodies having no elasticity along their length and usually only modest elasticity or no elasticity at all in the vertical plane. Beam ends have no bumper function unless that is somehow designed into the beam.

A bumper, on the other hand, is a device specifically designed to have elasticity and the ability to absorb shock. The present application, at page 43 lines 8 through 10, states as much: "The ends of the rods are protected from being potential pokers by use of plastic bumpers, ball bumpers, feathers, or softening by some other means."

The applicant very respectfully draws the examiner's attention to the diagrams of the '156 patent, which diagrams clearly show support structures (rods, beams) which have the ability to

withstand vertical loads with only a modest degree of bending, even in the "thin" vertical dimension. Thus the beams of the '156 patent are not made of some highly elastic material, and lack the additional element claimed in the present invention.

The applicant very respectfully requests the examiner allow claim 1 and claims dependent thereupon.

Claim Rejections Under 35 USC 103

In accordance with the telephone conference of November 10th, 2004 (Wednesday), claim 16 has also been amended to include the beam end bumper limitation, and allowance is respectfully requested in regard to claim 16 and claims dependent thereupon.

Conclusion

The applicant thanks the examiner for his efforts in this matter.

For all the foregoing reasons, applicant respectfully urges that the application is now in condition for immediate allowance, and such action is requested. The examiner is respectfully urged to contact applicant's counsel, Craig W. Barber, PO Box 16220, Golden, Colorado, 80402-6004, 303-278-9973, fax 303-278-9977, with any questions or comments.

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CLAIMS AS AMENDED NOVEMBER, 2004

What is claimed is:

1. (Previously Amended) An interactive toy for cats comprising:

a plurality of vertically sequential tiers, each tier having at least one beam, the beam being substantially horizontal;

at least one beam end bumper covering a first end of a first beam;

each beam of the tiers above the lowest tier having suspended therefrom at least one member selected from the group consisting of: cat attractants, beams and combinations thereof; wherein

each of the beams of the lowest tier having suspended therefrom a plurality of cat attractants; whereby

contact with one cat attractant causes dynamically linked motions of the beams and the other cat attractants, and contact with one beam causes dynamically linked motions of the beams and other cat attractants.

2. (Original) The cat toy of claim 1, wherein the cat attractants are in visual proximity to each other.

3. (Original) The cat toy of claim 1, wherein the cat attractants further comprise simulated prey suspended at least in part by their tails.
4. (Original) The cat toy of claim 1, wherein at least one cat attractant further comprises one member selected from the group consisting of:

spoons, feathers, fabric strips, balls, metal disks, simulated birds, bells, reflective objects, simulated solitary prey, simulated group prey, lights, hookless fishing lures, and combinations thereof.

5. (Original) The cat toy of claim 1, further comprising:

suspension means for suspending the cat toy from above, the topmost tier being suspended therefrom.

6. (Original) The cat toy of claim 1, further comprising:

a suspension device, the topmost tier being suspended from the suspension device.

7. (Original) The cat toy of claim 6, wherein the suspension device further comprises one member selected from the group consisting of: a hook, an eye-hole screw, a bracket and combinations thereof.

8. (Original) The cat toy of claim 1, wherein

suspension of the tiers is accomplished by means of one member selected from the group consisting of: strips of fabric, monofilament lines, strings, wires, chains and combinations thereof;

wherein such suspension members are strong enough to resist breaking by a prey animal using the cat toy.

9. (Original) The cat toy of claim 1, wherein the beams further comprise at least one small notch, and further wherein at least one suspension member wraps around at least one beam at the small notch.

10. (Original) The cat toy of claim 1, wherein the suspension members are secured to the beams by means of one member selected from the group consisting of: adhesive, passing through the beams, wrapping around the beams, hooks, swivels, and combinations thereof.

11. (Cancelled)

12. (Original) The cat toy of claim 1, wherein the beam end bumper further comprises a cat attractant.

13. (Cancelled)

14. (Cancelled)

15. (Original) The cat toy of claim 1, wherein the cat toy is suspended at a height such that the prey animal may reach the cat attractants suspended from the bottom tier when the cat toy is not in motion.

16. (Currently Amended) An interactive toy for cats, the cat toy being rotatably suspended, the cat toy comprising:

a first tier comprising a first beam, the first beam having suspended therefrom at least one additional beam;

beam coating covering at least a portion of one of the beams;

at least one beam end bumper covering a first end of a first beam;

at least one beam having suspended and balanced therefrom a plurality of suspended cat attractants, wherein

the cat attractants are in visual proximity to each other, whereby dynamically linked responsive motions of the tiers are provided.

17. (Cancelled)